HIGH COURT OF UTTARANCHAL AT NAINITAL

Criminal Misc. Application No. 885 of 2006

1. Hari Kishan Sharma s/o Sri Jogi Ram Sharma
2. Jogi Ram Sharma s/o Sri Beni Ram Sharma
3. Smt. Dukhni Sharma w/o Sri Jogi Ram Sharma
4. Surendra Sharma s/o Sri Jogi Ram Sharma
5. Smt. Sunit Sharma w/o Sri Surendra Sharma

.... Applicants

Versus

1. State of Uttaranchal
2. Ram Preet Sharma s/o Sri Ramdaur
   R/o Mohhalla Hafizpur, P.s. Gola,
   District Lakheempur U.P. .....Respondents

Dated: 29.11.06

Hon'ble Rajesh Tandon, J.

Heard Sri Kishor Kumar counsel for the applicants and learned A.G.A. for the respondents.

By the present application under section 482 Cr.P.C. the petitioners have prayed for quashing of the proceedings of Criminal Case No. 1338 of 2006, Rampreet Sharma vs. Harikishan Sharma and others, pending in the Court of Judicial Magistrate, Khatima, District Udham Singh Nagar.

Briefly stated respondent no. 2 lodged a F.I.R. against the applicants at Police Station Khatima under section 302, 201, 498-A and 494 I.P.C. The matter was investigated by the police and final report has been filed. The Judicial Magistrate issued notice to the respondent no. 2 who filed protest application, which was allowed and the Magistrate concerned directed the police to re-investigate the case. The police further investigated

the case and again submitted final report. Respondent no. 2 filed protest report and the Judicial Magistrate after recording statements of witnesses under section 200 and 202 Cr.P.C. issued summons to the applicants.

So far as the instant petition under section 482 Cr.P.C. is concerned no interference can be made under section 482 Cr.P.C. as both the parties will be at liberty to lead the evidence in view of the observations made by the Apex Court in the case Medchl Chemicals and Pharma (P) Ltd. vs. Biological E. Ltd. and others (2003) 3 SCC 269.

Since the trial has to take place on the basis of complaint for the offences under aforesaid sections, therefore, without expressing any opinion on the merits of the case, I direct the applicants to appear before the Magistrate concerned and the court will permit them to file appearance bonds to the satisfaction of the Magistrate concerned for their regular appearance in the case.

Subject to the observations made above, application under Section 482 Cr.P.C. is disposed of.

Rajesh Tandon, J.

Dated: 29.11.2006
*Dhyani